

REMARKS

Applicants thank Examiner Shukla for the helpful suggestions during the telephone conference of March 3, 2004.

Upon entry of the foregoing amendments, claims 16, 18-25, 29, and 39 are pending in the application. Claim 26 has been canceled without prejudice. Claims 16, 20-22, and 39 have been amended. Applicants submit that no new matter has been introduced by the amendments to the claims. The amended claims are fully supported by the specification as originally filed. Applicants further submit that the amendments and cancellations are made merely to expedite allowance of claims directed to certain commercially relevant embodiments of the present invention. Applicants reserve the right to pursue claims of similar or differing scope in the future.

Applicants now address the Examiner's rejections in the order presented in the previous Office Action dated July 16, 2003.

Withdrawn rejections

Applicants note that the Examiner has withdrawn the rejection of claims 32-33 and 44 under 35 U.S.C. 102, and the rejection of claims 32, 33, 36, 38, and 44 under 35 U.S.C. 103, in view of Applicants' arguments and amendments filed on December 16, 2003.

Claim rejection under 35 U.S.C. § 112, first paragraph

Claims 1, 4-15, 16, 18-26, 29, 39, and 45 are rejected under 35 U.S.C. § 112, first paragraph, on the ground that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The basis of the rejection appears to have two components. (A) Applicants' claims drawn to *ex-vivo* gene therapy still encompass *in-vivo* considerations. (B) Applicants' *ex vivo* method is enabled for autologous or allogeneic cells only, not for xenogeneic cells. Applicants respectfully traverse this rejection to the extent that they are maintained in light of the amended claims.

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Applicants note that amendments and arguments were made in the response filed on December 16, 2003.

As suggested by the Examiner during the telephone conference, Applicants have further amended claims 16, 20-22, and 39 to clarify the characteristics of the claimed method. Applicants have also adopted the Examiner's suggestions and canceled claim 26 without prejudice. The subject matter of claim 26 relating to autologous or allogeneic cells has been incorporated into independent claim 16. Applicants submit that the above amendments were made solely to expedite allowance of claims directed to most commercially relevant embodiments of the present invention, without acquiescing to the Examiner's assertion. Applicants reserve the right to pursue claims of similar or differing scope in the future.

Accordingly, Applicants submit that the pending claims are enabled by the teachings of the specification. Therefore, reconsideration and withdrawal of this rejection under 35 U.S.C. § 112, first paragraph, are respectfully requested.

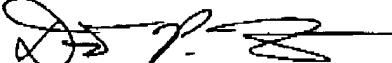
CONCLUSION

Applicants submit that the pending claims as amended are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to Deposit Account No. 18-1945.

Respectfully Submitted,

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